UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/SR.176
22 April 1994

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Twelfth session

SUMMARY RECORD OF THE 176th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 April 1994, at 3 p.m.

Chairman: Mr. DIPANDA MOUELLE

CONTENTS

Submission of reports by States parties under article 19 of the Convention (continued)

Organizational and other matters (continued)

Action by the General Assembly at its forty-eighth session:

(b) Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights

(c) World Conference on Human Rights

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.94-12525 (E)

The meeting was called to order at 3.05 p.m.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 6) (continued)

1. Mr. BRUNI (Secretary of the Committee) drew the Committee's attention to the annotations to agenda item 6 contained in document CAT/C/26 and to documents CAT/C/5, 7, 9, 12, 16/Rev.1, 21/Rev.1 and 24, which comprised lists of the States parties whose initial reports had fallen due in the period 1988 to 1994. In addition, the States parties whose second periodic report had fallen due in 1992 or had been requested for 1993 or 1994 were listed in documents CAT/C/17, 20/Rev.1 and 25. With regard to initial reports, the overall figures for the period from June 1988 to March 1994 were: 51 reports submitted and 22 overdue.

2. The situation regarding initial reports due in 1988 remained unchanged from the Committee's previous session. Two States parties, Togo and Uganda, had not yet submitted their initial reports, in spite of eight reminders. However, in March 1994 the Ugandan Government had expressed an interest in availing itself of the advisory services of the Centre for Human Rights for the purpose of preparing its report. He suggested that the Committee, in consultation with representatives of the relevant branch of the Centre for Human Rights, might discuss that possibility at the current session.

3. Of the initial reports due in 1989, only one, that of Guyana, had not yet been received. Guyana had been sent six reminders. At the previous session, Belize and Peru had been asked to submit new versions of their initial reports. Belize had not yet done so, but Peru's report had been received in February 1994 and would be considered at the Committee's next session, with Mr. Gil Lavedra serving as country rapporteur and Mr. Lorenzo as his alternate.

4. Of the initial reports due in 1990, those of Brazil and Guinea had not yet been received. As they were more than three years late, the Chairman, at the Committee's request, had conferred with the representative of Brazil and sent a letter to the Minister for Foreign Affairs of Guinea in November 1993, reminding them of their obligations under the Convention.

5. Three initial reports requested in 1991 had not yet reached the secretariat: those of Guatemala, Malta and Somalia. As the reports of Guatemala and Somalia were more than three years overdue, the Committee might wish to confer with one of their representatives in Geneva or send a letter to their respective Minister for Foreign Affairs. In addition, Liechtenstein, having withdrawn the first version of its report submitted in 1992, had promised a new version in 1994; it had not yet been received.

6. Six initial reports requested in 1992 had not yet reached the secretariat: those of Croatia, Estonia, Jordan, Venezuela, Yemen and Yugoslavia (Serbia and Montenegro). Estonia had announced that its report was being prepared and would be submitted shortly. Croatia had filed a request the previous month for assistance from the Centre for Human Rights in preparing its report. The Committee might wish to discuss that request with representatives of the Centre.

7. Of the eight initial reports requested in 1993, only one, that of Monaco, had been received. It would be considered at the Committee's next session.

8. Turning to the situation with regard to second periodic reports, he said that 14 of the 26 reports requested in 1992 and 6 of the 9 reports requested in 1993 were overdue. Chile's report (CAT/C/20/Add.3), due in 1993 and submitted in February 1994, would be considered at the Committee's next session. The report of the Netherlands, due in January 1994 and received in April 1994, would also be on the agenda for the next session.

9. In reply to a question by Mr. SORENSEN, he said that the report of the Netherlands would not cover the Netherlands Antilles and Aruba. If the supplementary report covering those territories was available in time, it would be considered with the main report.

10. Mr. EL IBRASHI suggested that the reminders sent to States parties whose initial reports were overdue should draw their attention to the fact that they were in violation of the Convention. On a more encouraging note, States parties should be informed of the availability of advisory services and provided with a clear summary of the material to be included in the report, together with a model report by another State party.

11. Mrs. ILIOPOULOS-STRANGAS suggested that they might also be given a list of States parties that had already submitted their reports, a list that would show them to be in a minority.

12. Mr. BEN AMMAR proposed that a comprehensive questionnaire should be compiled to assist countries in preparing their reports.

13. Mr. SORENSEN said that he recalled having discussed on a previous occasion which country reports might serve as models. He felt, however, that a discussion on the point should be deferred until a meeting at which representatives of the advisory services branch were present.

14. Mr. BRUNI (Secretary of the Committee) said in reply to Mr. El Ibrashi that although the word "violation" did not appear in the reminders sent to States parties, attention was drawn to the fact that the State party had freely undertaken to comply with the reporting requirement when it had signed the Convention. Mention was already made in the reminders of the existence of advisory services. Model reports, on the other hand, were supplied only if an explicit request was received from the State party concerned. Governments frequently asked for reports from States parties in the same region.

15. In response to Mrs. Iliopoulos-Strangas, he said that there would be no problem in enclosing with the reminders a list of States parties that had already submitted their initial reports.

16. With regard to Mr. Ben Ammar's proposal for a comprehensive questionnaire, he pointed out that a copy of the general guidelines regarding the form and contents of initial reports to be submitted by States parties under article 19, paragraph 1, of the Convention (CAT/C/4/Rev.2) was invariably appended to the reminders. In the case of periodic reports, copies

of the initial report, the summary records of the meeting at which the report had been discussed, and the Committee's conclusions and recommendations were also appended to the letter.

17. Mr. SORENSEN pointed out, for the benefit of the newcomers on the Committee, that the degree of severity of the wording of the reminders reflected the length of the period for which a report had been overdue.

18. Mr. LORENZO drew attention to the existence of a Manual on Human Rights Reporting (HR/PUB/91/1), which States parties might find helpful in preparing their reports. With regard to the overall situation, the figures for overdue reports were not quite so disastrous as he had feared. He agreed with Mrs. Iliopoulos-Strangas that States parties more than three years overdue should be made aware of the fact that they were lagging behind the majority of their co-signatories.

19. Mr. BRUNI (Secretary of the Committee) drew attention to two notes, one from the Government of Uganda and one from the Government of Croatia, sent in reply to a note from the secretariat indicating that advisory services were available to assist with the drafting of reports. The Government of Uganda requested details of the form of assistance that could be provided and of what the Government was expected to do. The Committee might therefore wish to reflect on what action it could take to assist Uganda. For example, would any member of the Committee be willing to meet the government official responsible for preparing the report, either in Geneva or in Uganda, to help him with his work or to indicate exactly what the Committee required? And, what suggestions could the Committee make to the advisory services personnel, bearing in mind that in several General Assembly resolutions human rights treaty monitoring bodies were requested to identify technical assistance projects in specific countries.

20. In its note the Government of Croatia gave some explanations of the reasons why it had not been able to submit a report and was applying for advisory services and technical assistance, in particular, to enable it to prepare reports and improve compliance with its reporting obligations. An early reply containing the necessary information on the way in which such assistance could be obtained in the shortest possible time was requested. The Government wished to know what kind of assistance the Committee could offer.

21. Mr. BURNS observed that it would be better to postpone any discussion on what the Committee could do until members of the advisory services programme were present. In any case, there was a United Nations handbook which described all the reporting obligations of States parties to all United Nations human rights treaty monitoring bodies and set out in detail what was required. A copy should be sent to the States parties concerned, and the Committee should ascertain what the advisory services personnel needed from it.

22. Mr. EL IBRASHI fully supported that suggestion. In addition, at the beginning of every session a brief meeting could be held with the permanent representatives of States parties that had not submitted a report, to be

attended also by personnel from the advisory services programme. Direct contact of that kind would be more effective and would not be embarrassing for either party.

23. Mr. LORENZO said that the States parties that tended to comply best with their reporting obligations were those that had an inter-ministerial commission to prepare reports. There might also be a standing national commission comprising representatives of NGOs to prepare reports and follow up the Committee's recommendations. Without such a commission, there was a danger that reports would be sent in and filed, with no further action being taken. In any case, the civil servants working on any such commission would need to receive information on how the system worked. Guatemala was an example of a State party that had set up such a commission and had been assisted in that way.

24. The CHAIRMAN observed that it was not possible to solve all the problems raised in the discussion, although the establishment of the national commissions mentioned by Mr. Lorenzo would help considerably. The secretariat could perhaps arrange a meeting with officials of the advisory services programme to see how they could help.

25. Mr. SORENSEN said it was his understanding that the Committee had already decided to meet officials from the advisory services programme. With regard to Mr. El Ibrashi's suggestion regarding the holding of meetings with the permanent representatives of States parties whose reports were overdue, he pointed out that the Council of Europe's Committee for the Prevention of Torture already held very fruitful meetings with government liaison officers; a similar arrangement might be of value for the work of the United Nations Committee against Torture. Apart from the drafting of reports, it was very important to help States parties to implement the Convention. National commissions of the type already mentioned would no doubt be useful in that regard, but training should also be given at the grass-roots level - in other words, to the police. The advisory services programme had already done much good work, as in the cases of Albania, Uruguay and Romania. The topics to be discussed at the meeting with its officials should include the drafting of reports and the political and grass-roots arrangements for implementing the Convention.

26. The CHAIRMAN requested the secretariat to arrange a meeting with officials from the advisory services programme on 21 April 1994 and suggested that a meeting with representatives of States parties whose reports were overdue should be arranged for the Committee's next session.

27. Mr. BRUNI (Secretary of the Committee) welcomed the idea of holding a meeting with representatives of States parties whose reports were overdue. He pointed out, however, that States parties that were behind schedule in the submission of reports to the Committee were usually also behind schedule in the submission of reports to other human rights treaty bodies. A meeting with permanent representatives might therefore be difficult to arrange. Certain projects for training national personnel in the drafting of reports had already been carried out or were under way, and it was possible to bring together representatives of a number of States parties whose reports were overdue for an intensive training course.

28. Mr. EL IBRASHI supported the idea of holding meetings with representatives of States parties that were behind schedule in the submission of reports. His own experience in Geneva indicated that there should be no problem in holding meetings with ambassadors every six months. If the ambassador himself could not attend, his deputy would come. Regular meetings at the beginning of sessions would be fruitful and would at least provide ambassadors with an opportunity to acquaint themselves with the Committee's work. The Committee should therefore consider the idea.

29. Mr. BEN AMMAR said that the Committee should reflect on the possibility of holding a meeting with officials from the advisory services programme. The problems met with in the case of States parties that had already submitted an initial report would no doubt be different from those encountered in the case of States parties that had never submitted a report at all. It would be useful to know how many of them had no permanent mission in Geneva.

30. The CHAIRMAN noted that the Committee supported the idea that a meeting with representatives of States parties whose reports were overdue should be held in November 1994.

The meeting was suspended at 4.20 p.m. and resumed at 4.50 p.m.

31. Mr. SORENSEN considered that the Committee should discuss at a public meeting an issue that had already been thoroughly debated in closed session, namely, the possibility referred to in the annotations to item 6 of the provisional agenda (CAT/C/26), whereby the Committee might decide to consider the implementation of the Convention in the States parties concerned in the absence of their report, where reports were overdue for five years or more. Since the public had no access to proceedings that took place in closed session, the issue should also be discussed in the context of a public meeting.

32. Mrs. ILIOPOULOS-STRANGAS pointed out that there had been controversy in the Committee the previous day as to whether any legal basis existed for considering the situation in a country in the absence of a report. That possibility had been envisaged by the Committee at a time when its membership had differed from its present membership. No consensus had emerged in the previous day's debate on the procedure to be adopted in such cases.

33. Mr. GIL LAVEDRA said that a decision on the question involved a substantive legal point and was not to be taken lightly, since it had major implications for the way in which the Convention was to be interpreted. There were two possibilities: either the Committee was entitled, as if by divine right, to take over the functions of the State and to arrogate to itself powers that did not derive from the text of the Convention; or else the Convention assigned it specific powers, by which it must abide strictly. If the Committee was to decide to consider a country's situation in the absence of a report, then that decision must be a reasoned one, taken after thorough and serious debate. He himself knew of no legal basis for taking such a decision.

34. Mr. LORENZO said that he would be ready to give his views on the substance of the issue at the appropriate time. At present, however, the matter was a purely procedural one. The Committee had taken a decision on how it might deal with the problem of reports that were long overdue; it had not decided that it would or should consider implementation of the Convention in the absence of a report. In his view, the decision taken had been a wrong one, since, should it be established that there was no legal basis for its action, the Committee would be seen to have issued what amounted to an empty threat. In any case, no firm decision had been taken to examine a country's situation in the absence of a report.

35. As to the substance, pending a fuller debate and until persuaded to the contrary, he continued to believe that the Committee would indeed be entitled to consider implementation of the Convention in the absence of a report, but with a legal basis other than article 19.

36. Mrs. ILIOPOULOS-STRANGAS said that to threaten to act without a legal basis, even in hypothetical circumstances, was no way for the Committee to conduct its business. The issue must be dealt with; and those who believed that a legal basis existed should submit their reasoning to the Committee. A majority of members appeared to share her view that no legal basis existed.

37. Mr. EL IBRASHI supported the views expressed by Mr. Gil Lavedra and Mrs. Iliopoulos-Strangas. It was not the Committee's role to threaten countries or to act as a tribunal. He could not countenance the possibility that the Committee might officially inform a country that it intended to take such a course, without being sure of its legal basis. The Committee must have the strongest possible legal grounds for saying even that it might consider taking such a course of action. Whether it subsequently decided actually to take that course of action was, of course, quite another matter. But it would be unthinkable for the Committee to threaten a country with such action without being sure that the Convention gave it the right to do so; and he himself doubted that any such legal basis existed. Furthermore, if it was established that there was in fact a legal basis, criteria would have to be established. How often would such a letter have to be addressed to the country, and over what period of time, before the Committee was justified in taking such a course of action?

38. Mr. SORENSEN reiterated that his concern was that a possibility set forth in a public document of the Committee should be debated in one of its public meetings. The current meeting was no doubt not the most appropriate time to debate the issue, but such a debate should be held at some point. Needless to say, there could be no question of the Committee resorting to such a course of action in the absence of a legal basis for so doing.

39. Mrs. ILIOPOULOS-STRANGAS said that if the Committee, with a membership differing from its current composition, had taken a decision that was likely to bring it into disrepute, then it was important that that decision should be officially corrected. The decision referred to in document CAT/C/26 appeared not to be representative of the views of the Committee as currently constituted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Appointment of country rapporteurs and their alternates

40. The CHAIRMAN invited members to volunteer to serve as country rapporteurs and alternate country rapporteurs for the initial report of Peru, the initial report of Monaco, the second periodic report of Chile, and the second periodic report of the Netherlands.

41. Mr. GIL LAVEDRA and Mr. LORENZO volunteered to serve as country rapporteur and alternate country rapporteur respectively for Peru.

42. Mr. EL IBRASHI and Mrs. ILIOPOULOS-STRANGAS volunteered to serve as country rapporteur and alternate country rapporteur respectively for Monaco.

43. Mr. GIL LAVEDRA and Mr. LORENZO volunteered to serve as country rapporteur and alternate country rapporteur respectively for Chile.

44. Mr. SORENSEN volunteered to serve as country rapporteur for the Netherlands. He suggested that Mr. Yakovlev should be invited to serve as his alternate.

Dates of next sessions

45. Mr. BURNS said that he wished to know the dates of the Committee's next sessions, since that information would help members to plan their activities accordingly.

46. Mr. BRUNI (Secretary of the Committee) replied that the Committee would hold its thirteenth session from 7 to 18 November 1994, its fourteenth session from 24 April to 5 May 1995, and its fifteenth session from 13 to 24 November 1995.

ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-EIGHTH SESSION (agenda item 10):

(b) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS;

(c) WORLD CONFERENCE ON HUMAN RIGHTS

47. Mr. BRUNI (Secretary of the Committee) read out the English text of a letter dated 8 December 1993, from Mr. Ibrahima Fall, Assistant Secretary-General for Human Rights, addressed to Mr. Joseph Voyame, the then Chairman of the Committee Against Torture. The letter read:

> "The World Conference on Human Rights in its Vienna Declaration and Programme of Action underlined the importance to the effective promotion and protection of human rights of education, training and public information. Section D of Part II entitled 'Human rights education' deals specifically with the topic. References to education, training and information are also to be found in many other parts of the Declaration.

Your Committee, directly and through the meeting of Chairpersons, contributed in many ways to the preparation of the Vienna Declaration which will guide our activities for the years to come.

We are now exploring ways of giving practical effect to the provisions of the Declaration on human rights education and information. I would like to request guidance and practical suggestions from your Committee, based on its experience in monitoring the implementation of human rights, on the following three points - as well as on any other matters which might be pertinent: what rights should be selected for emphasis for the purpose of human rights education, training and information? What criteria should be adopted in determining which projects submitted by States should be given priority? What professions or groups should be selected for priority consideration in human rights education, training and information?

I would also appreciate receiving any suggestions on practical and concrete projects or programmes which could serve to implement the Vienna Declaration and Programme of Action's provisions relating to human rights education, training and information. You have already received for comment a copy of the Plan of Activities which we have prepared to implement the Vienna Declaration.

The contribution of your Committee will be most important and I am looking forward to hearing from you and to continuing our dialogue on this matter."

48. The CHAIRMAN invited the Committee to take discuss the contents of the letter from the Assistant Secretary-General for Human Rights.

49. Mr. LORENZO suggested that, in order to avoid taking up too much of the time available to the plenary Committee, two members should be designated to form a working group which would produce a draft reply to the Assistant Secretary-General's letter for approval by the plenary.

50. Mr. SORENSEN supported the idea of a working group. The elimination of torture was the most fundamental step towards protecting human rights in general. Education and training constituted a central aspect of the Committee's work, and he cited the example of his own rehabilitation centre, which in 1993 had provided training to more than 13,000 people. In his view, article 10 of the Convention, with its provisions for educating the various officials who might be responsible for individuals held in custody or detention, was a suitable basis for a reply to the Assistant Secretary-General's letter. The Committee would also need to put forward suggestions regarding appropriate educational and training methods. At the same time, it was vitally important in combating torture to raise public awareness of human rights matters.

51. The CHAIRMAN also agreed that a working group should be appointed to draft the reply, and proposed Mr. Sorensen and Mr. Ben Ammar should form the group.

52. It was so decided.

53. Mr. BEN AMMAR suggested that the working group, when drafting its reply, might usefully acquaint itself with the recommendations of the International Congress on Education for Human Rights and Democracy, which had taken place in Montreal in March 1993 and had formulated a world action plan of human rights education.

54. Mrs. ILIOPOULOS-STRANGAS suggested that the Assistant Secretary-General's letter called for the members of the Committee to put forward their own personal proposals, rather than merely draw attention to proposals and recommendations by other bodies with which the Assistant Secretary-General was undoubtedly already acquainted.

55. Mr. SORENSEN agreed, and suggested that the members of the Committee should convey any ideas they might have regarding the reply to the working group as soon as possible.

56. It was so decided.

57. The CHAIRMAN invited the Committee to consider the appointment of two members of the Committee to report on the activities of the Committee on the Elimination of Discrimination against Women and the Special Committee against Apartheid to replace members who had retired.

58. Mr. EL IBRASHI nominated Mrs. Iliopoulos-Strangas to report on the work of the Committee on the Elimination of Discrimination against Women.

59. Mr. LORENZO seconded the nomination.

60. Mrs. Iliopoulos-Strangas was duly appointed.

61. The CHAIRMAN proposed that Mr. Regmi should report on the activities of the Special Committee against Apartheid.

62. Mr. Regmi was duly appointed.

63. Mrs. ILIOPOULOS-STRANGAS suggested that a special rapporteur should be appointed to monitor individual communications concerning allegations of torture received during the intersessional period. As matters stood, too much importance might be attached to the periodic reports submitted by States parties; more attention needed to be paid to specific individual cases.

64. Mr. LORENZO agreed, but pointed out that the Committee had already acted to ensure that each communication received was dealt with by a rapporteur, including communications received between sessions. Since not all States parties had recognized the competence of the Committee to receive

communications under article 22, not all such communications could be considered. However, those which were eligible were dealt with as efficiently as possible, given the constraints imposed by the fact that the Committee met only once every six months.

65. The CHAIRMAN expressed the hope that any apprehension on that score had been allayed. If not, and given the confidential nature of matters relating to articles 20 and 22, he suggested that it might be more appropriate to return to the topic at a closed meeting.

The meeting rose at 5.35 p.m.